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Attorney General Laxalt Announces Settlement of More Than \$1.8 Million With K-12 Test Provider

Carson City, NV – Today, Nevada Attorney General Adam Paul Laxalt announced that his Office, representing the Nevada Department of Education (NDE), reached a pre-litigation settlement with Smarter Balanced Assessment Consortium, a part of the UCLA Graduate School of Education and Information Studies. The settlement is a result of Smarter Balanced's inability to deliver Nevada's Criterion Referenced Tests (CRTs) to students in grades three through eight. In March 2015, electronic testing materials developed by the Smarter Balanced Assessment Consortium and delivered by Measured Progress failed, preventing students across Nevada from completing their federally mandated standardized tests. After extensive pre-litigation negotiations, Smarter Balanced agreed to credit the NDE a total of \$1.8 million in cash and services to reduce the costs of the testing program, and to improve the testing system to prevent future testing problems.

"My Office is committed to ensuring that all vendors hired by the State deliver their promised goods and services," said Laxalt. "With this settlement, litigators from my Office ensured that the State will be reimbursed for its losses and that the Department of Education was able to deliver this year's examinations without interruption."

In 2010, Nevada partnered with Smarter Balanced Assessment Consortium, a group of states that collaboratively developed the assessments to serve as Nevada's CRTs. In the same year, the NDE entered into a contract with Measured Progress to deliver various assessments that included the CRTs. Among other things, Smarter Balanced was to provide test content and a test delivery platform to Measured Progress, the entity responsible for delivering Nevada's CRTs, as well as managing and executing an effective technology rollout of the Smarter Balanced assessments.

Originally, testing scheduled for March 16 was delayed until March 30, 2015 for Smarter Balanced to test the quality of the system. Despite the delay, students experienced



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difficulty logging into and staying on the online assessment portal. As a result, students across Nevada were unable to complete the assessment, thereby invalidating their scores.

“Nevada’s citizens and most importantly, Nevada’s students, have received a fair settlement that will help us in developing the most effective assessment system that not only provides a snapshot of where our students stand academically but also informs our teachers and parents where to focus their efforts,” said Steve Canavero, Ph.D., Nevada Superintendent of Public Instruction. “We just finished a very successful testing period in which more than 200,000 students completed the Smarter Balanced online assessments. I am pleased that my staff, the Attorney General’s Office and Smarter Balanced were able to resolve this issue amicably while maintaining a clear focus on this year’s successful test administration.”

The settlement resolves allegations that Smarter Balanced failed in its obligations to provide a fully functioning test. Smarter Balanced will reduce the fees paid by the Nevada Department of Education by \$996,895. Additionally, Smarter Balanced retained an independent firm to study its open source testing system and recommend improvements to ensure functionality, evaluate the validity of the test scores for Nevada students who were able to take the tests, and procure enhancements to the system. Smarter Balanced also provided training and support to Clark County, where the most significant testing disruptions occurred. In October of 2015, Nevada reached a settlement with Measured Progress, the vendor responsible for delivering the Smarter Balanced tests.

Deputy Attorney General Gregory D. Ott represented Attorney General Laxalt and the Nevada Department of Education in this matter.

To view the Smarter Balanced settlement, click [here](#). To view the Measured Progress settlement, click [here](#).

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